

Special Notice

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New Law Makes All Sales of Counterfeit Goods Taxable

If a person is convicted in trafficking counterfeit goods, then all of their sales and purchases of those counterfeit goods will be considered taxable. This applies whether they are a manufacturer, wholesaler, distributor, or a retailer of the counterfeit goods. A person may no longer claim a resale deduction for the sale of counterfeit goods, and any purchases made of counterfeit goods for subsequent resale will also be taxable.

What are counterfeit goods?

Counterfeit goods commonly refer to property with a counterfeit mark. In general terms, a counterfeit mark is a mark that is identical with or substantially indistinguishable from a mark registered with the United States Patent and Trademark Office. In California, it is illegal for any person to willfully manufacture, intentionally sell, or knowingly possess for sale, counterfeit goods.

Counterfeit goods unfairly compete with legitimate brands by tarnishing the brand's reputation and causing a revenue loss to the state. In addition, some counterfeit products, such as counterfeit drugs or auto parts, may cause sickness or injury.

How does the BOE fight illegal sales of counterfeit goods?

The new law provides Board of Equalization (BOE) investigators with another tool to use in their efforts to stop the sale of counterfeit goods (AB 2681). The BOE may bill the convicted trafficker of counterfeit goods for unpaid sales or use tax within one year after the last day of the calendar month following the date of conviction. By billing convicted counterfeit goods traffickers, the BOE is discouraging the criminal sale of counterfeit goods and leveling the playing field for all businesses.

How can I stop the sale of counterfeit goods?

If you are a manufacturer, wholesaler, distributor, or a retailer of non-counterfeit goods, your sales are unaffected by this law. However, sales of counterfeit goods may negatively affect your business or community. If you suspect counterfeit goods are being sold, please visit our TRaCE Task Force webpage. There, you will find information on how the BOE is teaming up with other agencies to combat illegal business activities and how to report a crime.